



REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

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# GOVERNMENT GAZETTE

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No. 12352

CAPE TOWN, 21 MARCH 1990

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 585.

21 Maart 1990

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 9 van 1990: Wysigingswet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1990.

No. 585.

21 March 1990

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 9 of 1990: Prevention and Combating of Pollution of the Sea by Oil Amendment Act, 1990.

PREVENTION AND COMBATING OF POLLUTION OF THE SEA BY  
OIL AMENDMENT ACT, 1990

Act No. 9, 1990

## GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the Prevention and Combating of Pollution of the Sea by Oil Act, 1981, so as to provide for the abolition of the Oil Pollution Prevention Fund and the substitution of the State Revenue Fund therefor; and to increase the fines which may be imposed under the Act; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)*  
*(Assented to 9 March 1990.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

## Amendment of section 1 of Act 6 of 1981

1. Section 1 of the Prevention and Combating of Pollution of the Sea by Oil Act, 5 1981 (hereinafter referred to as the principal Act); is hereby amended—

(a) by the deletion in subsection (1) of the definition of “Fund”; and

(b) by the insertion in subsection (1) after the definition of “ship” of the following definition:

10 “‘State Revenue Fund’ means the fund established by section 81 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983);”

## Amendment of section 8 of Act 6 of 1981

2. Section 8 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

15 “(b) as little damage, loss or inconvenience as possible shall be caused in the exercise of the powers conferred by this subsection, and such compensation as may be agreed upon or, failing agreement, determined by a competent court, shall be paid from the State Revenue Fund for any damage, loss or inconvenience so caused.”

## 20 Substitution of section 26 of Act 6 of 1981, as amended by section 1 of Act 59 of 1985

3. The following section is hereby substituted for section 26 of the principal Act:

### “Income and expenditure

26. (1) There shall be paid into the State Revenue Fund—

25 (a) any amount deposited in terms of section 16 and any amount paid to the State by virtue of the provisions of section 9 (1);

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- (b) the proceeds of the realization of any goods, property or assets in terms of section 19;
- (c) any fines paid or recovered in consequence of the conviction of any person under section 30;
- 5 (d) all money paid to or recovered by the Minister in consequence of a removal in terms of section 27 (6) of pollution of the sea by oil; and
- (e) any other money which may become payable to the State by virtue of the provisions of this Act.
- (2) Expenses incurred—
- 10 (a) to undertake or promote the research determined by the Minister, on any matter which, in the opinion of the Minister, is connected with the pollution of the sea by oil;
- (b) when the Minister deems it necessary or expedient in the public interest, for defraying expenditure incurred in preventing or removing the pollution of the sea by oil in or discharged from ships, tankers or offshore installations and in connection with matters incidental thereto;
- 15 (c) for the payment of remuneration and allowances of persons engaged in terms of section 27 (1) and persons referred to in section 27 (3) (b);
- 20 (d) for the defraying of expenses incurred in removing, or in taking steps to prevent, pollution of the sea by oil, in terms of section 27 (6);
- (e) for the hire or purchase of equipment, buildings, machinery and accessories, apparatus, seagoing vessels, vehicles, aircraft and any other movable or immovable property deemed by the Minister to be necessary for or conducive to the performance of his functions in terms of the provisions of this Act;
- 25 (f) for the defraying of expenses incurred in the instruction of officers of the State and other persons in connection with pollution of the sea by oil and in the training of such officers and persons in the prevention and removal of such pollution and in activities incidental thereto;
- 30 (g) for any purpose connected with the performance by the Minister of his functions in terms of the provisions of this Act; and
- 35 (h) for the defraying of expenses incurred by the Director-General which are incidental or conducive to the performance of his functions in terms of the provisions of this Act,
- 40 shall be defrayed out of money appropriated by Parliament for such purpose: Provided that for the purposes of paragraph (b) the defraying of expenditure incurred in preventing or removing pollution of the sea by oil in or discharged from any ship, tanker or offshore installation shall not exempt the owner of such ship, tanker or offshore installation from liability under this Act for payment of such expenditure.”.

**Amendment of section 27 of Act 6 of 1981**

- 45 4. Section 27 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “ (2) If a person who is or was employed by virtue of the provisions of subsection (1) caused the [Fund] State any loss or damage because he—
- 50 (a) is or was responsible for a deficiency in [moneys] money in the State Revenue Fund, or for the destruction of, or damage to, any property acquired with [moneys] money from the State Revenue Fund or any other State property;
- (b) due to any wilful act or omission on his part, is or was responsible for any claim necessitating any payment from the State Revenue Fund,

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such loss or damage may be recovered from such person in the prescribed manner.”.

**Amendment of section 30 of Act 6 of 1981, as amended by section 2 of Act 63 of 1987**

5. Section 30 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any person convicted of an offence referred to in—

- 10 (a) section 3 (4), 8 (2), 13 (7), 24 (5) or subsection (1) (a) (i), shall be liable to a fine not exceeding **[one thousand rand] R10 000** or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
- 15 (b) subsection (1) (b) (iii), (b) (iv), (c) (i), (c) (ii), (c) (iii) or (c) (iv), shall be liable to a fine not exceeding **[two thousand rand] R20 000** or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- 20 (c) subsection (1) (a) (ii), shall be liable to a fine not exceeding **[five thousand rand] R40 000** or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;
- (d) section 2 (1) or 13 (6) or subsection (1) (b) (i) or (b) (ii), shall be liable to a fine not exceeding **[twenty thousand rand] R200 000** or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.”.

**Assets, liabilities, rights, duties and obligations of Oil Pollution Prevention Fund to devolve upon State**

25 6. (1) Any credit in the Oil Pollution Prevention Fund referred to in section 26 of the Prevention and Combating of Pollution of the Sea by Oil Act, 1981 (Act No. 6 of 1981), immediately before the date of commencement of this Act, shall be paid into the State Revenue Fund established by section 81 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), while all other assets and the liabilities, rights, duties and obligations of such first-mentioned Fund on such date,  
30 shall devolve upon the State.

(2) Any reference in any law or document to the Oil Pollution Prevention Fund shall be construed as a reference to the State.

**Short title**

35 7. This Act shall be called the Prevention and Combating of Pollution of the Sea by Oil Amendment Act, 1990.